IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

MFA.No. 1050 of 2001()

OPMV.2227/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, TIRUR
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APPELLANT:

THE ORIENTAL INSURANCE CO.LTD.,
NOW REPRESENTED BY ITS ASSISTANT MANAGER,
REGIONAL OFFICE, METRO PALACE, KOCHI-18.

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS:
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1. T.A.THITEERU, W/O.LATE KAVUMPURATH MOHAMMED,
KAVUMPURATH HOUSE, KANMANAM P.O., VIA.,
KALPAKANCHERI, MALAPPURAM DT.

2. P.SAJITHA, W/O.LATE RAYU @ RAYINKUTTY K.,
KAVUMPURATH HOUSE, KANMANAM P.O., VIA
KALPAKANCHERI.

BY ADV.]RI.P.C.SASIDHARAN
SRI.M.P.PRABHANANDAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.7768 OF 2001 IN MFA.1050 OF 2001:

DISMISSED.

5.9.2007

Sd/-
J.B.KOSHY, JUDGE

Sd/-
K.HEMA, JUDGE

/TRUE COPY/

PA TO JUDGE

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO. 1050 OF 20O1

Dated this the 5th day of September, 2007

JUDGMENT

Koshy, J.

This appeal is filed by the Insurance Company against the quantum of compensation awarded by the Tribunal. The mother and wife of a motor accident victim filed an application contending that the first respondent's son died in a motor accident due to the negligence of the driver of the vehicle insured by the appellant Insurance Company. The Tribunal, after finding the above, awarded compensation taking Rs.3,000/- as monthly loss of dependency. The deceased was employed as a driver in Abu Dhabi. Exhibit A9 is the passport and Exhibit A8 is the identity card. Exhibit A7 is the certificate from Naeem Restaurant, Alqua, Al-Ain, U.A.E which shows that the deceased was working with them as a waiter and drawing monthly income of 2000 Dirhams which is Rs.13,000/-. Being employed in a restaurant, his food and accommodation ws also free. According to the claimants, the deceased was waiter-cum-driver. The Apex Court in United India Insurance Co. Ltd. v. Patricia Jean Mahajan and others (JT 2002(5) SC 74) held that with regard to

persons employed in foreign countries, for calculating compensation only exchange rate on the date of accident should be taken into account. If the exchange rate is applicable, his monthly income was Rs.13,137/-. But the Tribunal in this case has taken only Rs.3,000/- as monthly contribution. If 50% of his income is taken as family contribution, it would have been more than double the amount. The only question disputed by the appellant is taking of Rs.3,000/- as monthly loss of dependency. The claimants did not file appeal against the award. We find no ground to interfere with the award passed by the Tribunal at the instance of the Insurance Company. The appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, J.

M.F.A.NO.1050 OF 2001

JUDGMENT

5.9.2007